IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.575 OF 2007

Shri Surendra Sribali Sahu ...Applicant.

Versus

The State of Maharashtra ...Respondent.

....

Mr.S.H.Bhatia, Adv. for the Applicant.
Mr.K.V.Saste, APP, for the State.

....

CORAM : SMT.V.K.TAHILRAMANI,J.

DATED : 22nd March, 2007.

P.C.:

1. Heard the learned Advocate for the Applicant and the learned APP for the State.

2. The applicant is seeking bail in C.R.No.I-316 of 2005 of Narpoli Police Station, Bhiwandi. The said C.R. is mainly under Sections 302 and 201 r/w. section 34 of IPC.

3. It is the prosecution case that the wife of the present applicant was having illicit relations with deceased Pramod. Five years prior to the incident, the present applicant and his wife and the deceased were all residing next to each other in one chawl.

At that time the wife of the applicant developed illicit relations with deceased Pramod. As the applicant came to know about this, he fought with the deceased. Thereafter the applicant sent his wife to his village. One month prior to the incident the applicant brought his wife back from the village. After the wife of the applicant was brought from the village the deceased again started visiting the house of the applicant. The applicant got angry due to this.

4. The deceased was residing along with his cousin brother Udaykumar and some other cousins in one room. On 22.12.2005 at about 9:45 p.m., the applicant went to that room and he enquired with Udaykumar regarding the whereabouts of Pramod. Udaykumar informed the applicant that Pramod would come back from his duty at about 10:00 p.m.. Thereafter the applicant went away. At about 10:15 p.m., Pramod returned home from work. Thereafter, he removed his clothes, had a wash and tied a towel round his waist and sat down to have dinner. At that time, the applicant again called out to Pramod. The applicant told Pramod to come with him. Hence Pramod went with the applicant in the same condition i.e. with a towel tied round his

waist. Udaykumar has stated that thereafter he waited for Pramod, but, as Pramod did not return he went to sleep. In the morning, when Udaykumar got-up, one Ramvilas informed him that one dead body has been found and the dead body looks like Pramod. Hence Udaykumar went there and he found that it was the body of Pramod and there were injuries on the head, neck and other parts of the body of Pramod. Udaykumar stated all these facts, as narrated in this paragraph and the earlier paragraph, in his statement.

5. The learned APP has pointed out that one Ravindra was residing near the house of the applicant. He has stated that on 22.12.2005 at about 10:30 p.m. the applicant came to his house along with a man who had a towel round his waist. Both of them entered into the house of the applicant. Thereafter the door of the house of the applicant was closed and he could hear the applicant and that man talking in loud voices. The learned APP submitted that this shows that the deceased was taken by the applicant to his house and done to death and thereafter his body was disposed off. The learned APP submitted that this is further corroborated by

the fact that blood stains were found on the tiles in the house of the applicant and the said blood stains tally with that of the deceased.

6. The learned Advocate for the applicant has submitted that as far as Ravindra is concerned, the deceased was an unknown person to him and Ravindra has not identified the body of the deceased or his photograph as being the person who had come with the applicant to his house on 22.12.2005 at 10:30 p.m.. Thus, he submitted that the identity of the person who come with the applicant to the house of the applicant is not established. However, it is seen that Udaykumar has stated that at 10:15 p.m. the applicant come to his house and he called out to the deceased and the deceased went with the applicant. Udaykumar has stated that at that time the deceased was wearing a towel. Ravindra has stated that at 10:30 p.m. the applicant came with a person in a towel. In view of the statements of these two witnesses, *prima facie* it can be said that it was deceased Pramod who had come with the applicant to his house at 10:30 p.m.. Thus, even if the dead body of Pramod or his photographs were not shown to Ravindra, yet looking to the statements of Udaykumar

and Ravindra the identity of the person who come to the house of the applicant with the applicant on 22.12.2005 at 10:30 p.m. is *prima facie* established.

7. The learned Advocate for the applicant has made various submissions in respect of recovery of blood stained clothes at the instance of the applicant, however, as I am not taking the said circumstance into consideration, it is not necessary to deal with the same. In my view there is other material which is sufficient to point out the involvement of the applicant with the crime. Hence, I do not think that this is a fit case to grant bail to the applicant at this stage. However, if the trial of the applicant is not concluded within a period of three months from today, liberty is granted to the applicant to prefer a fresh application for bail. Application is rejected.

(SMT.V.K.TAHILRAMANI,J.)